

1873-007 Chancery Causes: Mary Hubbard & vs. Eli Hubbard, Jr.
Lee Co.

Bailey

CA- Estate Dispute

To the Honorable Henry J. Morgan Judge
of the County Court of Lee County Virginia;

The Bill of Complaint of Mary Hubbard
and Caroline N. Hubbard of Knoxville Tennessee
and John W. Bailey of Lee County Virginia Humbly
Complaining respectfully represents that One Eli
Hubbard Sr. late of Lee County Virginia departed
this life some time in the year 1863 have made
his last will and testament by which he devised
to the Said Mary Hubbard and Caroline N. Hubbard
all his real estate which Consisted of a large
and valuable tract of land lying and being
about seven miles west of Jonesville in Lee
County in what is called the Poor Valley and
Said will was admitted to record in the
County Court of Lee County and has never been
annulled or set aside. The Said Mary Hubbard
and Caroline N. Hubbard afterwards sold and
conveyed a certain boundary of said land to
Your Orator John W. Bailey so that the Said Ma-
ry Hubbard Caroline N. Hubbard and John W. Bailey
are the owners of the land devised by Eli Hubbard
to Said Mary and Caroline who were his daughters
but Your Orators will here state that after the
Death of the Said Eli Hubbard his second wife
gave birth to an infant son named Eli Hubbard
Jr. who is still an ^{about nine or ten years old} infant, and is entitled to such por-
tion of the Said Eli Hubbard Sr. estate as he would
have been entitled to at the Said Eli Hubbards death

in Case he had died intestate and Your Orators
~~reserving to themselves any reversionary interest, they only have to his part~~
& further allege that the Said Eli Hubbard Sr. had
at his death seven Children living so that the
infant Eli Hubbard Jr. makes the eighth and
is therefore entitled to the one eighth part of
the real estate of Said Eli Hubbard Sr. deceased
after the payment of his debts which in Case he dies
under the age of 21 without issue and unmarried reverts back to said Mary & Caroline
Now the object of this Bill is to have a partition
of the land of the Said Eli Hubbard Sr. and to
lay all the part of said land to said infant that
he may be entitled to under the Circumstances and
for Your Orators to raise his portion of said estate
out of what was devised and bequeathed to them
contributing the same ratably either in kind or
in money as the Court in this particular Case
may deem most proper Subject to the reversionary interest
aforesaid upon the conditions aforesaid.
Your Orators being without an adequate rem-
edy at law and best receivable in a Court of
Chancery their prayer therefore is that the Said
Eli Hubbard Jr. infant Son of the Said Eli
Hubbard Sr. deceased be made the party defendants
to this Bill and that he be summoned and required
to answer said Bill on oath and that a guardian
ad litem be appointed to appear answer and
defend for him in this Cause and that upon
a hearing the Court will decree him his portion
of the estate of Eli Hubbard deceased after the
payment of Decedent's debts either in kind or in
money as the Court in this particular Case may deem
most proper and such other further and

general relief be extended to your orators as may
be consistent with equity and justice and best suited
to their Case. May the Commonwealths writ of Habeas
be issued directed &c.

David Miller,

for Complainants

Mary Hubbard & others.

vs. Bill in Chy.

Eli Hubbard Jr.

1873 Jan'y term. By agreement
of parties, Bill filed, came
out for hearing. Decree for
partition & costs.
H. Decree made

\$ 7.76
Camden 10.00
G. A. 10.00
\$ 27.76

Eli Hubbard Junr.
ad⁴ Mary
Caroline ~~Hubbard~~ Hubbard ad Litem
John W Bailey.

} Answer of Guardian
ad Litem

And the said Eli Hubbard Jr.
comes into Court, and by John D Sharp, his Guardian
ad Litem, makes answer to the bill of complaint
filed in ^{this Honorable} Court by the Complainants.

For answer thereto he says that he is
an Infant under twenty one years of age,
and therefore wanting in legal discretion.

He says that he knows nothing of the facts
stated in Complainants bill, and consequently
neither admits, nor denies the allegations
thereof. He therefore asks Your Honor to require
full proof of the same.

He asks Your Honor to extend to him that
protection, and all the privileges and rights, guar-
anteed to persons of minor years by Courts
of Equity.

Having fully answered, he prays to be hence
dismissed with his Costs expended in defending.

And he will ever pray &c.

Eli Hubbard Junr.

By John D Sharp, his Guardian ad Litem.

Done to before me by John D Sharp this January 23rd 1873.

James W Orr, Clerk.

Eli' Hubbard Jr, By
John D. Sharp, Guardian
ad Litem,
acts } Answer
Caroline Hubbard
and Others

Filed at San Francisco 1870.
James W. Corbett

Guardian fee \$5.00

Mary Hubbard & others Complt's.
 against
 Eli Hubbard Jr. Sept. } Decree final

This Cause Came on this day again to be heard upon the papers formerly read in the Cause and the report of Charles C. Elliot Peter Bays and William P. Horton and the plat accompanying the same, Commissioners appointed by a former decree in this Cause to lay off and assign to the Defendant Eli Hubbard Jr. the one eighth part in value quantity and quality Considered of the real estate owned by Eli Hubbard Sr. at his death and bequeathed and devised to Complt's Mary & Caroline N. Hubbard by him and it appearing to the Court that said Commissioners report had been filed in the Clerks office in this Cause for more than ten days before this term of the Court and no exceptions having been filed thereto it is adjudged order and decreed that the same be and is hereby Confirmed and that the Defendant Eli Hubbard Jr. hold the lot of land laid off and allotted to him by said Commissioners as and for his eight part of the real estate of Eli Hubbard Sr. deceased & that the Complainants Mary Hubbard Caroline N. Hubbard and John N. Bailey hold the balance of said real estate according to their respective rights and interests in the same. But the said lot laid off and assigned to Eli Hubbard Jr. is subject to the reversionary interest of Complainants Mary Hubbard and Caroline N. Hubbard as the law directs that they may be entitled to therein in case the Defendant Eli Hubbard Jr. dies under twenty one years of age unmarried

and without issue. And it is further ordered
 adjudged and decreed that the Clerk of the
 County Court of Lee County admit to record in
 the deed book in his office the said report
 and plat accompanying the same and this decree
 And it is further ordered adjudged and decreed
 that Complainants Mary Hubbard and Caroline N.
 Hubbard pay seven eighths of the Taxable Costs
 of this suit and that the ^{guardian of the} Defendant Eli Hub-
 bard ^{out of any personal assets in his hands due his wards in any} pay the remaining eighth and that
 when his Guardian pays the same a receipt
 for the same will be a proper voucher in a
 Settlement with a Commissioner of accounts,
 and nothing farther appearing necessary to
 be done in this Cause it is hereby ordered to be
 Stricken from the docket

Mary & Caroline
 Hubbard & others
 vs.
 Seven final.
 Eli Hubbard Jr
 Entered Order Book
 page 212.
 James W. Orr. Clk.

Enter this decree
 J. P. Morgan
 Feb. 10 - 1875

Mary Hubbard & others Plffs. }
 against Eli Hubbard Jr. Deft. } Decree in Chy

The Plaintiffs this day filed their Bill in this Cause and on their motion John D. Sharp was appointed Guardian ad litem for the infant Defendant who asked leave to file his answer which being granted the same was accordingly filed and by the agreement of the Complainants by their Counsel and the Defendant by his guardian ad litem the service of process on the Defendant and the proceedings at rules in the Clerks office are all waived by them and the Cause is set for hearing by agreement and thereupon the Cause came on this day to be heard upon the Complainants Bill and the answer of Eli Hubbard Jr. by John D. Sharp his Guardian ad litem and was argued by Counsel On Consideration whereof the Court is of the opinion that in this particular ^{case} it is most proper that the defendant should have his portion of the real estate of Eli Hubbard Sr. deceased in kind, and therefore the Court doth hereby adjudge order and decree that Complainants Mary Hubbard and Caroline Hubbard contribute the same ratably out of what is devised and bequeathed to them by Eli Hubbard Sr. deceased subject however to the reversionary interest they may be entitled ^{to}, therein in case the Defendant dies under twenty one years of age unmarried and without issue, and the Court doth further order

adjudge and decree that Charles C. Elliott, Atty.
Genl. and William P. Norton be and are hereby ap-
pointed Special Commissioners whose duty it shall be
to go upon the real estate owned by Eli Hubbard Sr.
deceased and devised by him to Complainants Mary &
Caroline N. Hubbard and lay off and assign to the
Defendant the one eighth part in value of said real
estate quantity and quality considered and they
will report their proceedings together with fair
plat of the land & the part laid off and assigned
to a future term of this Court and the Cause is
Continued.

Mary Hubbard & Caroline N. Hubbard

vs.
James M. Norton

Eli Hubbard for

underd. Order Book page 200.

James M. Norton.

Enter this Decree

Henry Morgan
Jan 23/73

1912

Plaintiff vs. Defendant
at the Court House of the County of ... State of ...
this 1st day of ... 1912.

Subscribed and sworn to before me this 1st day of ... 1912.
Notary Public for the State of ...

Case No. ...
The undersigned the Court of the County of ... State of ...
in and for the County of ... State of ...
do hereby certify that the following is a true and correct
copy of the proceedings in the above entitled case as the same
were taken in the Court of the County of ... State of ...
on the ... day of ... 1912.
Witness my hand and the seal of the Court at the City of ...
this 1st day of ... 1912.
Judge of the Court of the County of ... State of ...

state it is a matter of course, and they will
report their proceedings together with a plan plat of the land
of the part land off and assigned to a further term
of the court. The cause is ordered.

At copy

Teste Wm. A. C. C. C.

Virginia

At a county court convened and held for Lee County, at
the Court house thereof on the 23d day of January 1873
Mary Hubbard et al Plaintiffs
against
Eli Hubbard Jr. Defendants
In Chancery

The plaintiffs this day filed their bill in the cause, and on
their motion John D. Sharp was appointed Guardian ad litem
for the infant-defendants who asked leave to file his answer,
which being granted the same was accordingly filed, and by
the agreement of the complainants by their counsel and the
defendant by his Guardian ad litem the service of process
on the defendants, and the proceeding at rules in the clerk
office are all waived by them and the cause set for hearing
by agreement of the parties and thereupon the cause came on
this day to be heard upon the plaintiffs bill and the answer
of Eli Hubbard Jr. by John D. Sharp his Guardian ad litem
and was argued by counsel. On consideration whereof the
court is of opinion that in this particular case it is most
proper that the defendant should receive his portion of the
real estate of Eli Hubbard Sr. deceased in kind and
thereupon the court doth hereby adjudge, order and decree that
said Mary Hubbard and said Eli Hubbard contribute
the same ratably and of what is devised and bequeathed to
them by Eli Hubbard Sr. deceased, subject however to the
rights as indicated they may be entitled to therein in case the
age of said Eli is over 21 years of age or not and without
more, and the court doth further order and decree that
John C. Elliott, Peter Hays and Mr. P. Norton be and
are hereby appointed Special Commissioners whose duty it
shall be to go upon the real estate now held by Eli Hubbard
Sr. deceased or devised by him to complainant Mary and
said Eli Hubbard, or any of them and assign to the defendant
his one eighth part in value of said real estate given to and

quality considered and they will report their proceedings
together with a fair plat of the land and the part
to it offered assigned for a further term of
year, and this course is continued.

A copy

Teste 1st Dec 1816

2
Virginia

At a County Court continued or held for Lee County, at
the Court House thereof the 23d day of January 1972.
Mary Hubbard & others

Plaintiffs

vs
Lee Hubbard &

Defendants

Test. J.

The plaintiffs this day filed their bill in the cause of and
against John L. Sharp was appointed Guardian ad litem
for the infant defendant, who asked leave to file his answer which
being granted the same was accordingly filed, and by the
agreement of the complainants by their counsel, and the
defendant by his Guardian ad litem the service of process on
the defendant and the proceedings at rules in this cause were
waived by them and the cause at last having by agree-
ment of the parties, and therefore the cause came on this day
for consideration upon the plaintiff's bill and the answer of Eli Hubbard &
by John L. Sharp his Guardian ad litem and was argued by
counsel. On consideration whereof the court is of opinion that
in this particular case it is most proper that the wife's share
from his portion of the real estate of Eli Hubbard & deceased in
the same and thereupon the Court doth hereby adjudged, order and
decree that complainants Mary Hubbard and her heirs
do inherit and bequeathed to them by Eli Hubbard & de-
ceased, subject however to the extraordinary interest
therein which is entitled to the same by the defendant
and who is under twenty one years of age and is married and
without issue, and the Court doth further order,
adjudge and decree that Charles B. Elliott Esq
Benjamin D. D. D. and are hereby appointed
Special Executors inasmuch that duty it shall be to go
upon the real estate owned by Eli Hubbard & de-
ceased and devised by him to complainants Mary &
Lee Hubbard and any other persons who are entitled to the

dependent the one which part in value & so it is not a
quantity of it & really as indicated in the report
the 1st part is together with the 2nd part
of the 3rd part. Said 2nd part is assigned to the 1st part
of the 2nd part. The 3rd part is continued.
I am
L. W. 11th 1st 2nd 3rd

Mary Hubbard & others Complainants } Report of
against } Commissioners
Eli Hubbard Jr. Defendant }

To the Honorable Henry J. Morgan Judge of the
County Court of Lee County:

Pursuant to a decree of the County Court
of Lee County made and entered at the January
term thereof 1873 in the Cause in Chancery of
Mary Hubbard and others against Eli Hubbard
Jr. The undersigned who were appointed Special
Commissioners by Said Decree to lay off and
assign to the Defendant Eli Hubbard Jr. the one
eighth part in value of the real estate of Eli
Hubbard Sr. deceased which was devised and be-
queathed to Complainants Mary and Caroline N.
Hubbard by Said Eli Hubbard Sr. deed. quantity
and quality considered and having performed
the duties assigned to us by Said decree we
hereby report as follows to wit:

We first made an estimate of the land
Eli Hubbard Sr. owned at his death and after
some surveying we ascertained that the quantity
owned by him at his death and which he
devised and bequeathed to Complainants Mary
and Caroline N. Hubbard was something less
than One thousand acres and over nine hun-
dred acres and one eighth part in quantity
would be about one hundred and twenty
acres but the defendants part being but a
small part of the entire tract we could not
lay it off so as to give him any part
of the buildings and we thought it best
to lay his part off on the South west end
of the tract and to give him a larger quantity

of land and we also gave him a larger quantity of land for the additional reason that he gets a larger proportion of Mountain land which is not so valuable as the land in the Poor valley and on the Poor valley ridge and for these reasons we considered that 60 acres added to the 120 acres to compensate for the lack of buildings and the excess of mountain land would make about one eighth part in value quantity and quality considered and we therefore laid off to the Defendant Eli Hubbard Jr. One hundred and eighty acres of Said land on the ^{South} west end and bounded as follows to wit:

Beginning at a whiteoak and two small beeches on a spur on the north side of Poor valley ridge about 18 poles from the foot of said ridge the beginning corner of a survey made by Eli Hubbard and with the lines thereof S 6 E 49 poles to two chestnuts on the top of said ridge thence N 85 E 7.3 poles to a stake on a line of said survey thence leaving said line N 20 W 300 poles parallel with John W. Baileys South west. line to a stake on top of Cumberland mountain and with the top of said mountain as it meanders about 160 poles Southwestwardly to a stake and rock in the Harris gap a corner to a survey made by Eli Hubbard Jr. and with lines thereof S 22 E 130 poles to two hickorys gum and spotted oak on Frederick McDonalds line and with the same N 63 E 90 poles to three chestnuts a corner to said McDonald S 26 1/2 E 92 poles to a poplar in a flat S 6 W 20 poles to the beginning containing one hundred and eighty acres be the same more or less.

And we hereby return with this our report a fair plat of the entire tract of land and the one eighth part we have laid off and assigned to the Defendant Eli Hubbard Jr. but this plat includes a considerable quantity of land that is claimed, ~~to be~~ held by other parties under adverse and Superior titles which lies on the South east part of said tract and this part we did not take into consideration in our estimate of the quantity of the entire tract but no part of the 180 acres laid off and assigned to the Defendant Eli Hubbard Jr. is covered by any part of these ^{claims of} adverse and Superior titles.

All of which is respectfully submitted to Your Honor, on this the 5th day of February 1873.

Charles C. Elliot
Peter Bays
Wm. J. Horton } Commissioners

Commissioners Fees.

Charles C. Elliot \$5.00
Peter Bays 2.50
Wm. J. Horton 3.00

Mary Hubbard & others
vs. } Commissioners
 } Report.

Eli Hubbard Jr.

Filed February 5th 1873.
James W. Orr. Clk.

Recorded in Dual
Book No. 14 pag 614
Jas. W. Orr Clk

The Commonwealth of Virginia :

TO THE SHERIFF OF LEE

COUNTY—GREETING :

WE command you to summon

E. L. Hubbard & Co.

to appear at the clerk's office of the county court of Lee, at the court house, on the first Monday in *February* next, being rule day, to answer *Mary Hubbard*

Caroline M. Hubbard, John W. Bailey of a bill in Chancery.

And have then there this writ. Witness JAS. W. ORR, clerk of our said court at the court house, the *23^d* day of *January* 1872, in the *97th* year of the Commonwealth.

Wm. A. Orr L.C.

20	-30	100
10	40	200
18		300
15		400
14		500
13		600
12		700
11		800
10		900
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8		1100
7		1200
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20		2900
10		3000
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20		3200
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Mary Hubbard et al
 & J. Pa. Chy.

Eli Hubbard Jr.

July, 1872.